

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

-----: :  
SONY MUSIC ENTERTAINMENT, et al.,: :  
Plaintiffs, : :  
-vs- : Case No. 1:18-cv-950  
COX COMMUNICATIONS, INC., et al.,: :  
Defendants. : :  
-----: :

VOLUME 13 - (Jury Verdict)

TRIAL TRANSCRIPT

December 19, 2019

Before: Liam O'Grady, USDC Judge

And a Jury

APPEARANCES:

FOR THE PLAINTIFFS:

MATTHEW J. OPPENHEIM, ESQ.  
SCOTT A. ZEBRAK, ESQ.  
JEFFREY M. GOULD, ESQ.  
MICHAEL J. DRUCKMAN, ESQ.  
ANDREW L. GUERRA, ESQ.  
LUCY G. NOYOLA, ESQ.  
JIA RYU, ESQ.  
Oppenheim + Zebrak, LLP  
4530 Wisconsin Avenue, N.W.  
5th Floor  
Washington, D.C. 20015

FOR THE DEFENDANTS:

THOMAS M. BUCHANAN, ESQ.  
GEOFFREY P. EATON, ESQ.  
Winston & Strawn LLP  
1700 K Street, N.W.  
Washington, D.C. 20006-3817  
and  
SEAN R. ANDERSON, ESQ.  
MICHAEL S. ELKIN, ESQ.  
THOMAS P. LANE, ESQ.  
CESIE C. ALVAREZ, ESQ.  
Winston & Strawn LLP  
200 Park Avenue  
New York, NY 10166-4193  
and  
JENNIFER A. GOLINVEAUX, ESQ.  
THOMAS J. KEARNEY, ESQ.  
Winston & Strawn LLP  
101 California Street, 35th Floor  
San Francisco, CA 94111-5840  
and  
MICHAEL L. BRODY, ESQ.  
Winston & Strawn LLP  
35 West Wacker Drive  
Chicago, IL 60601  
and  
DIANA HUGHES LEIDEN, ESQ.  
Winston & Strawn LLP  
333 South Grand Avenue  
Suite 3800  
Los Angeles, CA 90071

1 NOTE: The December 19, 2019, portion of the case  
2 begins in the absence of the jury at 3:57 p.m. as follows:

3 JURY OUT

4 THE COURT: All right, I understand we have a  
5 verdict. Are we ready for our jury to return?

6 MR. ELKIN: Yes, Your Honor.

7 MR. ZEBRAK: Yes, Your Honor.

8 NOTE: At this point the jury returns to the  
9 courtroom; whereupon the case continues as follows:

16:00:04 10 JURY IN

11 THE COURT: All right, please have a seat.

12 THE CLERK: Mr. Foreperson, has the jury reached its  
13 verdict?

14 JURY FOREPERSON: Yes, we have.

15 THE CLERK: Would you please hand it to the Court  
16 Security Officer.

17 Ladies and gentlemen, is this your unanimous verdict?

18 NOTE: The jurors respond affirmatively.

19 THE COURT: All right, ladies and gentlemen, you have  
16:00:12 20 indicated the number of works in answer to number 5, but you  
21 haven't answered question number 3. So you haven't filled in  
22 the paragraph, the answer to question number 3.

23 So I'm going to have you go back -- and it's later  
24 filled out in number 5, but I would like you to fill it out in  
25 number 3 at this time. Okay?

1           So I'm going to ask you go back in and let us know  
2 when you're ready to return.

3           NOTE: At this point, 4:01 p.m., the jury leaves the  
4 courtroom; whereupon the case continues as follows:

5 JURY OUT

6           THE COURT: That's going to take a couple minutes,  
7 but it shouldn't take much more. They have failed to fill out  
8 question number 3, which is the number of works that were  
9 infringed. They later indicated it, but I want them to fill  
10 out number 3.

16:01:30

11           I also didn't check any math. So we'll check that.  
12 But let's take a brief recess.

13           All right, we're in recess.

14           NOTE: At this point a recess is taken; whereupon at  
15 4:03 p.m. the proceedings continue in the absence of the jury  
16 as follows:

17 JURY OUT

18           THE COURT: All right, Joe, let's get our jury,  
19 please.

16:04:17

20           NOTE: At this point the jury returns to the  
21 courtroom; whereupon the case continues as follows:

22 JURY IN

23           THE COURT: All right, please be seated.

24           We will start over.

25           THE CLERK: Mr. Foreperson, has the jury reached its

1 verdict?

2 JURY FOREPERSON: Yes, we have.

3 THE CLERK: Would you please hand it to the Court  
4 Security Officer.

5 Ladies and gentlemen, is this your unanimous verdict?

6 NOTE: The jurors respond affirmatively.

7 THE CLERK: In the matter of civil case number  
8 1:18-cv-950, Sony Music Entertainment, et al. versus Cox  
9 Communications, et al.

16:05:56 10 Verdict Form. We, the jury in the above-captioned  
11 action, answer the questions submitted to us as follows.

12 Under Liability, Contributory and Vicarious  
13 Infringement, question number 1: Did plaintiffs prove by a  
14 preponderance of the evidence that Cox was contributorily  
15 liable for infringement?

16 Answer: Yes.

17 Number 2: Did plaintiffs prove by a preponderance of  
18 the evidence that Cox was vicariously liable for infringement?

19 Answer: Yes.

16:06:29 20 Question number 3, plaintiffs have asserted  
21 infringement claims for 10,017 works. How many of the works  
22 did Cox vicariously or contributorily infringe?

23 Answer: 10,017 works.

24 Question number 4, under Willful Infringement: Do  
25 you find by a preponderance of the evidence that Cox's

1 contributory or vicarious infringement was willful?

2 Answer: Yes.

3 Number 5: What amount of -- excuse me. What amount  
4 of statutory damages do you award for each work contributorily  
5 or vicariously infringed?

6 Answer: \$99,830.29 per work.

7 Question number 6: What is the total amount of  
8 damages you award to plaintiffs in the case?

9 Total amount of damages: \$1 billion.

16:07:35 10 Signed the foreperson, dated December 19, 2019.

11 All right, let's poll our jury, please.

12 THE CLERK: Juror number 46, Jennifer Simonds, is  
13 this your true verdict?

14 JUROR SIMONDS: Yes, it is.

15 THE CLERK: Juror number 39, Fred Reger, is this your  
16 true verdict?

17 JUROR REGER: Yes, it is.

18 THE COURT: Juror number 25, Diana Holbrook, is this  
19 your verdict?

16:08:03 20 JUROR HOLBROOK: Yes, it is.

21 THE CLERK: Juror number 30, Jennifer Krempin  
22 Bridgman, is this your true verdict?

23 JUROR KREMPIN BRIDGMAN: It is.

24 THE CLERK: Juror number 24, Debra Hetmanek, is this  
25 your true verdict?

1 JUROR HETMANEK: Yes, it is.

2 THE CLERK: Juror number 5, Michael Calabrese, is  
3 this your true verdict?

4 JUROR CALABRESE: Yes.

5 THE CLERK: Juror number 23, Dana Herr, is this your  
6 true verdict?

7 JUROR HERR: Yes, it is.

8 THE COURT: And juror number 29, Erin Kraye, is this  
9 your true verdict?

16:08:29 10 JUROR KRAYE: Yes, it is.

11 THE CLERK: Thank you very much.

12 THE COURT: All right. Thank you, your work is  
13 complete, and I'm going to excuse you now.

14 I would like to come say "thank you" if you have a  
15 moment. I'll be here with counsel for a few minutes. And if  
16 you have to leave, I'll certainly understand that, but I would  
17 like to come back and say "thank you" for all your hard work.

18 So you are excused at this time. Thank you.

19 NOTE: At this point, 4:11 p.m., the jury is  
20 discharged and leaves the courtroom; whereupon the case  
21 continues as follows:

22 JURY DISCHARGED

23 THE COURT: All right, please have a seat.

24 I'm sure there are post-trial motions anticipated.  
25 So I'm not going to enter the verdict until we get our

1 post-trial motions done. I could enter the verdict, but hold  
2 it in abeyance. I usually don't formally enter the verdict  
3 until we've had a chance to have post-trial motions heard.

4 And I'd like you just to work on a schedule  
5 yourselves to file those post-trial motions. And give  
6 yourselves time to do it. I think there is -- obviously, you  
7 have had daily transcripts going, so that's not going to cause  
8 too much of a delay. But we've got the holiday season, and I'm  
9 -- you know, there is -- do it on your own schedule. Go home  
10 and hopefully spend a good holiday season.

16:10:41

11 I thank each of you. The case was well tried.  
12 You're all terrific lawyers. And it was a difficult case, but  
13 it helps a great deal when we have very good lawyers in the  
14 courtroom like each of you.

15 So I'm going to go say "thank you" to the jury, and I  
16 hope you all have a good holiday season.

17 And we are in recess.

18 MR. OPPENHEIM: Your Honor, I'm sorry, could I just  
19 ask one question? Maybe it's just my lack of understanding.

20 THE COURT: Yes, sir.

21 MR. OPPENHEIM: Are you saying that you're going to  
22 hold the verdict or hold the -- I assume you would hold the  
23 judgment, but the verdict would be entered.

24 THE COURT: Yeah, I am going enter the verdict. I'm  
25 holding the judgment.



1 MR. OPPENHEIM: Okay. Just checking. Sorry, I  
2 didn't understand.

3 THE COURT: Oh, no contact with the juries -- with  
4 the jurors.

5 MR. OPPENHEIM: We understood that from Amanda.  
6 Thank you, Your Honor.

7 MR. ZEBRAK: We understand. And I know on behalf of  
8 all the parties, thank you to the entire staff. It was very,  
9 very helpful. Thank you.

16:11:44 10 THE COURT: There is a lot going on. We will see you  
11 in the new year.

12 We're in recess.

13 MR. ZEBRAK: Thank you.

14 -----

15  
16 CERTIFICATE OF COURT REPORTERS

17  
18 We certify that the foregoing is a true and  
19 accurate transcription of our stenographic notes.

20  
21 /s/ Norman B. Linnell  
Norman B. Linnell, RPR, CM, VCE, FCRR

22  
23 /s/ Anneliese J. Thomson  
24 Anneliese J. Thomson, RDR, CRR

25